

### **REMARKS**

This responds to the Office Action mailed on February 19, 2009.

Claims 1, 3, 16, 18, 23, 25, and 29 are currently amended, claims 2, 17, and 24 are currently canceled, claim 28 was previously canceled, and no claims are currently added; as a result, claims 1, 3-16, 18-23, 25-27, and 29 are now pending and subject to examination in this application.

#### **§ 101 Rejection of the Claims**

Claims 1-27 and 29 were rejected under 35 U.S.C. § 101 as not falling within one of the four statutory categories of invention.

The Applicant has amended claims 1, 23, and 29 to recite that a processor performs the recited steps. The Applicant respectfully submits that the amendments to claims 1, 23, and 29 overcome the rejection of these claims under 35 U.S.C. § 101, and respectfully requests the withdrawal of the rejection of claims 1, 23, and 29.

The Applicant respectfully traverses the rejection of claim 16 under 35 U.S.C. § 101. Claim 16 recites a “A computer readable medium storing one or more sequences of instructions for causing a processing system to identify key video frames in a sequence of image frames . . . wherein execution of said one or more sequences of instructions by one or more processors contained in said processing system causes said one or more processors to perform the actions of . . .” The Applicant respectfully submits that claim 16 recites patentable subject matter under 35 U.S.C. § 101, and respectfully requests the withdrawal of the rejection of claim 16.

#### **§ 102 Rejection of the Claims**

Claims 1, 2, 14-17, 23, 24 and 29 were rejected under 35 U.S.C. § 102(b) as being anticipated by Tolku et al. (U.S. 6,549,643 B1).

The Applicant has amended independent claims 1, 16, and 23 by incorporating into them claims 2, 17, and 24 respectively. Consequently, the claimed subject matter now recites that a “displacement magnitude of each moved pixel” is determined. Independent claim 29 has similarly been amended to recite a displacement magnitude. The Applicant respectfully submits

that the rejection of claims 2, 17, and 24 is in error, that that rejection should be withdrawn, and that the amendments to claims 1, 16, 23, and 29 place the claims into a condition for allowance.

In rejecting claims 2, 17, and 24, the Office Action cites FIG. 2C, Equation 11, and lines 2-10 and 36-38 of column 11 in the Tolku patent as anticipating those claims. FIG. 2C is discussed in Tolku at column 10, line 62 through column 12, line 43. The Applicant respectfully submits that neither FIG. 2C, nor the written description explaining FIG. 2C, nor any other part of Tolku, discloses all the features of the claimed subject matter.

Specifically, FIG. 2C of Tolku does not disclose a rate of change of visual content that represents a displacement magnitude difference as recited in the claims. Rather, FIG. 2C of Tolku relates to a color histogram computation and analysis. The computation and analysis of the color histogram of Tolku involves a color-based difference, that is, a distance between the color histogram of each frame with an average histogram in a given shot. This color distance is not a displacement magnitude. A displacement magnitude results from a movement of a pixel in the frame, not from a color change.<sup>1</sup> Simply put, a color change is not a displacement.

Consequently, the Applicant respectfully submits that the claims are in a condition for allowance, and respectfully requests a notice to that effect.

#### § 103 Rejection of the Claims

Claims 3-4, 6, 9-11, 13, 18-19, 21, 25-26 and 28 were rejected under 35 U.S.C. § 103(a) as being obvious over Tolku et al. (U.S. 6,549,643 B1) in view of Zhang et. al. (U.S. 7,027,513 B2).

Claims 5, 7, 8, 20, 22 and 27 were rejected under 35 U.S.C. § 103(a) as being obvious over Tolku et al. (U.S. 6,549,643 B1) in view of Zhang et. al. (U.S. 7,027,513 B2), as applied to claims 3-4, 6, 9-11, 13, 18-19, 21, 25-26 and 28 above, and further in view of Ma et al. (US 2004/0088723 A1).

Claim 12 was rejected under 35 U.S.C. § 103(a) as being obvious over Tolku et al. (U.S. 6,549,643 B1) in view of Zhang et. al. (U.S. 7,027,513 B2), as applied to claims 3-4, 6, 9-11, 13, 18-19, 21, 25-26 and 28 above, and further in view of Sull et al. (US 2006/0064716 A1).

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<sup>1</sup> Applicant's specification, ¶ [0046].

Since all the independent claims are believed allowable as indicated above, the Applicant respectfully submits that dependent claims 3-13, 18-22, and 25-28 are also allowable, and respectfully requests a notice to that effect.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (612) 371-2140 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

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Date

June 18 2009

By

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on June 18, 2009.

Name

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